

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES ALLEN SUSKE KINNEY,

No. 2:15-CV-00129-JTR

Plaintiff,

vs.

REPORT AND
RECOMMENDATION TO DENY
MOTION FOR TEMPORARY
FURLOUGH

THE STATE OF WASHINGTON, THE
WASHINGTON DEPARTMENT OF
CORRECTIONS and GOVERNOR
JAY INSLEE,

Defendants.

BEFORE THE COURT is Plaintiff's Motion for Temporary Furlough, ECF No. 5. Plaintiff, a prisoner at the Airway Heights Corrections Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

In essence, Plaintiff is seeking his release, and that of another inmate, for the purpose of conducting discovery in this case. This Court, however, is without authority to release a duly convicted state prisoner so that he may more easily litigate a civil rights action.

Furthermore, by Order filed June 12, 2015, the Court found that Mr. Kinney had failed to state a claim upon which relief may be granted in his initial complaint and directed that he amend or voluntarily dismiss within sixty (60) days. On June 24, 2015, Plaintiff submitted a Motion to Voluntarily Dismiss Complaint, ECF No.

1 13. But, he also submitted a First Amended Complaint, ECF No. 14, and a Motion
2 to Reconsider the Order granting him leave to proceed *in forma pauperis*, ECF No.
3 15. In addition, on July 1, 2015, Plaintiff submitted a “Motion to Amend
4 Defendant List,” ECF No. 16. It is not entirely clear what Plaintiff’s intentions
5 for this case are.

6 Nonetheless, for the reasons set forth above, **IT IS RECOMMENDED** that
7 Plaintiff’s Motion for Temporary Furlough, ECF No. 5, be **DENIED**.

8 **OBJECTIONS**

9 Any party may object to a magistrate judge’s proposed findings,
10 recommendations or report within fourteen (14) days following service with a copy
11 thereof. Such party shall file written objections with the Clerk of the Court and
12 serve objections on all parties, specifically identifying the portions to which
13 objection is being made, and the basis therefor. Any response to the objection
14 shall be filed within fourteen (14) days after receipt of the objection. Attention is
15 directed to Fed. R. Civ. P. 6(e), which adds additional time after certain kinds of
16 service.

17 A district judge will make a de novo determination of those portions to
18 which objection is made and may accept, reject, or modify the magistrate judge’s
19 determination. The judge need not conduct a new hearing or hear arguments and
20 may consider the magistrate judge’s record and make an independent determination
21 thereon. The judge may, but is not required to, accept or consider additional
22 evidence, or may recommit the matter to the magistrate judge with instructions.
23 *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C.
24 § 636(b)(1)(B) and (C), Fed. R. Civ. P. 72; LMR 4, Local Rules for the Eastern
25 District of Washington.

26 A magistrate judge’s recommendation cannot be appealed to a court of
27 appeals; only the district judge’s order or judgment can be appealed.

28 **IT IS SO RECOMMENDED.** The District Court Executive is directed to

1 enter this Report and Recommendation, forward a copy to Plaintiff and SET A
2 CASE MANAGEMENT DEADLINE ACCORDINGLY.

3 DATED July 27, 2015.



A handwritten signature in black ink, appearing to read "M".

5 JOHN T. RODGERS
6 UNITED STATES MAGISTRATE JUDGE

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